

January 11, 2022

Hon. Paula Xinis
U.S. District Court for the District of Maryland
6500 Cherrywood Lane, Suite 400
Greenbelt, MD 20770

Re: *CASA v. Mayorkas*, 8:20-cv-2118-PX

Dear Judge Xinis:

Plaintiffs submit this letter in advance of the oral argument scheduled for January 18, 2022 to provide information about two developments that bear on the pending motions.

First, one motion before the Court concerns whether the Preliminary Injunction entered on September 11, 2020, which limits relief to members of Plaintiff organizations CASA de Maryland (“CASA”) and Asylum Seeker Advocacy Project (“ASAP”), is workable in practice and prevents harm to Plaintiffs’ members. *See* ECF No. 107-1, at 5, 19-21; ECF No. 125, at 10-17. The government’s most recent report submitted to plaintiffs in *Rosario v. United States Citizenship and Immigration Services*, No. 15-0813-JLR (W.D. Wash.) bears on this issue.

Contrary to Defendants’ representations that the Preliminary Injunction has been fully effective, *see* ECF No. 123-1, at 19-20; ECF No. 151, at 2, the *Rosario* report highlights USCIS’s ongoing struggle to identify and timely process employment authorization applications of CASA and ASAP members. According to the report, the agency processed less than half of initial member applications within the requisite 30 days in December 2021. *See* Winger Decl., Ex. A (Jan. 5, 2022 Status Report).¹ Agency counsel explained that the agency’s system for identifying CASA and ASAP members was “deactivated” beginning at the end of November 2021, such that USCIS was unable to identify member applications for treatment pursuant to this Court’s Preliminary Injunction. *See id.*, Ex. B (Jan. 5, 2022 Email to *Rosario* Pls.’ Counsel).

Plaintiffs’ counsel reached out to Defendants’ counsel on January 11 to better understand the impact of the system deactivation error on Plaintiffs’ members. Plaintiffs bring this factual development to the Court’s attention as evidence bearing on whether the Preliminary Injunction’s member / non-member distinction should be eliminated, as proposed in Plaintiffs’ Motion to Modify, to protect members from irreparable harm.

Second, on January 7, 2022, the Ninth Circuit granted the government’s unopposed motion to voluntarily dismiss its appeal in *Behring Regional Center LLC v. Mayorkas*, No. 21-16421 (9th Cir.), Dkt. 15. Accordingly, the government has not appealed or has voluntarily dismissed its

¹ Because this Court enjoined application of the Timeline Repeal Rule to CASA and ASAP members, the data in recent *Rosario* reports pertain almost exclusively to CASA and ASAP members. *See* ECF No. 108, at ¶ 2.

appeal in every case in which a district court has held that Chad Wolf's appointment was unlawful and/or have rejected subsequent attempts to ratify rules promulgated by Mr. Wolf, including in cases rejecting attempted ratifications by Secretary Mayorkas.

Respectfully submitted,

/s/

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/s/

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